

Tow Truck Supplier Strategy

Problem:

For a variety of reasons, we have seen an unwillingness of tow truck operators to assist the police in resolving ongoing blockades. There may also be a lack of specialized capacity in certain areas. This has become a major hurdle for police.

Proposed approach:

Taking an economic approach with a shift in incentives, develop and implement a tow truck supplier strategy or one that results in vehicles being moved that can be utilized by governments and police agencies. This strategy is to be deployed after government (local or provincial) capacity has been exhausted.

Federal Partners and Roles:

- PS: Coordination of FPT table for PT support
- RCMP: Contract Policing role and national police leadership
- PSPC: Expertise in procurement tools; secure storage capacity
- TC: Contacts to key industry players
- CF/DND: Potential expertise and capacity

Key elements of the Strategy:

Using all tools, including procurement options with strong incentives to participate; industry engagement; and clear communications.

1. Work through procurement options
 - a. Emergency procurement approaches (federal)

Recommend that PSPC invoke emergency contracting authority (\$15M) and National Security Exception (NSE) on the grounds of critical supply chain disruption

 - i. **PS/TC** would prepare NSE letter for ADM signature
 - ii. If support needs to be provided at a national level, recommend that multiple contracts be awarded.
 - iii. Due to sensitivity of the situation, PSPC and TC agree that directed contracts are likely to be the recommended approach.
 - iv. GoC should expect to pay premium rates to secure services.
 - b. Can existing municipal/provincial service contracts be amended as necessary?
 - i. It may not be possible to amend existing municipal or provincial contracts, depending on their respective procurement frameworks. Changing the terms, scope of work and basis of payment of an existing contract could invalidate previously conducted competitive processes and raise the risk of legal challenges. It may be preferable to issue new contracts under emergency contracting authorities.
 - ii. Premium for participation?

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- Raising the rates for an existing contract is typically not possible unless the contract terms already planned for economic increases based on the CPI or commodity-specific inflation metrics. While done in exceptional circumstances, it sets the precedent of allowing suppliers to set their price after the contract has been awarded.
 - Since the conditions have changed significantly, it may be preferable to go out with new contracts entirely, offering premium rates.
- iii. Can operators who refuse service be made ineligible to provide tow services directly or indirectly under any contracts with the city, provincial or federal governments for a defined period?
- The Federal VPMP does not apply to contracts awarded by other jurisdictions. Cities and provinces have their own equivalent policies.
 - Suspension under the Integrity Framework requires that the company's owners/board members be convicted of a crime.
 - Contractors who don't comply with their contracts are typically found to be in default. Allows gov't to reprocure from a different supplier. Under standard GoC contracting terms, the defaulting contractor is responsible for re-procurement costs, as well as the delta between the new contract and the old.
 - It would not be possible to deem refusal to provide service an indirect facilitation of an illegal activity
2. Connect available suppliers with police
- a. **How can PSPC/PS support law enforcement groups by connecting them with identified sources of supply?**
 - b. Safety plans in place
 - i. Possibility of providing contractual guarantees of anonymizing the tow equipment (remove/hide logos, provide "burner" plates)
 - ii. Identify and contract for security lots to store removed vehicles
 - PSPC Real Property may be able to provide secure sights to store seized vehicles. There are some precedents in this area.
 - iii. Hire security services to guard storage lots
3. Engaging with major transportation/freight companies
- a. To confirm which tow operators contract with these companies;
 - b. Ask them to communicate with these companies and secure support.
4. Facilitate out of province/country suppliers
- a. Michigan and Quebec, for instance. Leverage RCMP?
 - b. In municipalities where the number of operators is limited, recommend we leverage out-of-town/province equipment.

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5. Leverage alternate authorities under seized property statute
 - a. Allows for a 'drive-away' scenario rather than towing
 - b. Requires a lawful authority (Federal, provincial, municipal) operating under a legal regime that allows for seizure for the given unlawfulness

Key Decision Points:

1. federal procurement vs. support to provincial/municipal entities

2. tow trucks vs. drive away strategy

Scenario 1:

- If the selected strategy is to undertake a **coordinated procurement approach conducted by the federal government:**

- GoC can invoke emergency contracting and apply an NSE;
- Multiple regional contracts are preferable to a national supplier;
- Sole sourcing as the preferred strategy.
 - Any limit under NSE to use services of US companies?

- If the equipment can be procured through contractual arrangements with municipalities (rather than private sector suppliers), PSPC could provide support on these contractual arrangements.

- Once vehicles are seized they could be brought to secure federal facilities (in coordination with local law enforcement, tbc)

- Need PSPC Real Property to identify appropriate secure facilities (e.g. Tunneys)

Procurement technicalities needing to be addressed:

1. Security requirements

- Unlikely to be security requirements associated with these procurements.
- If so, engaging the Contract Security Program (CSP) will be a priority.

2. Indemnification/liability clauses

- Suppliers who agree to provide these services are likely to demand full indemnification. In emergency situations, LOL/Indemnification only needs PSPC CFO approval and not TB approval.
- Need to confirm TBS agreement of applicability in this case.

Scenario 2:

If procurement is to remain decentralized, PSPC could offer support to provinces and municipality:

- PSPC can support jurisdictions in identifying suppliers but does not have an existing approved list. (Check with RCMP for list?)
- PSPC can provide contractual language / templates as required

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- PSPC Real Property can offer-up federal facilities for storage as required (TBC)

2. Identify key stakeholders to connect

- Procurement: PSPC (Dorion/Trepanier)
- Police and government officials: RCMP, OPP, Provincial public safety leads
- Industry: Major motor carriers; Towing associations (TC has list to work from)

3. Connect key players

- PS to arrange FPT discussion on strategy
- TC can lead conversations with industry to build support

Scenario 3:

An alternate approach to the tow procurement strategy above is to **assemble teams of Class 1 drivers** who would drive seized vehicles to secure storage facilities. Taking control of vehicles is something PSPC does under seized property regime (although this is a much larger scale). The seized property directorate has procurement authority.

- Need to find qualified drivers. Preferred option would be a DND or municipal employee qualified for the given truck or rig. PSPC could protect their identity.
- Need a qualified mechanic(s). Trucks may be disabled (eg depressurized their brakes). Gaining access to the cab, preparing the vehicle and starting the vehicle (with or without a key) could take 3 to 4 hours per vehicle. Preferred mechanics could be s.38 OC Transport. Identity protection here as well.
- Both the drivers and the mechanics would need police protection during the preparation stage and the driving stage, and indemnification for damages.
- Storage options are available including: parking lot at Tunney's pasture, the airport, or OC Transport lots. Need to consider if additional security required at those locations.

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